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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363-7275-02]

RIN 0648-XG034

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2017-2018 Commercial Hook-and-Line Closure for King Mackerel in the Gulf of Mexico Southern Zone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) to close the hook-and-line component of the commercial sector for king mackerel in the Gulf of Mexico (Gulf) southern zone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: This temporary rule is effective from 12:01 a.m., local time, February 20, 2018, through June 30, 2018.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305, email:

kelli.odonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights for Gulf migratory group king mackerel (Gulf king mackerel) below apply as either round or gutted weight.

On April 11, 2017, NMFS published a final rule to implement Amendment 26 to the FMP in the *Federal Register* (82 FR 17387). That final rule adjusted the management boundaries, zones, and annual catch limits for Gulf king mackerel. King mackerel in the Gulf is divided into western, northern, and southern zones, which have separate commercial quotas.

The southern zone for Gulf king mackerel encompasses an area of the exclusive economic zone (EEZ) south of a

line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast, which includes the EEZ off Collier and Monroe Counties in south Florida (50 CFR 622.369(a)(1)(iii)).

The commercial quota for the hook-and-line component of the commercial sector in the southern zone is 596,400 lb (270,522 kg) for the current fishing year, July 1, 2017, through June 30, 2018 (50 CFR 622.384(b)(1)(iii)(A)).

Under 50 CFR 622.8(b) and 622.388(a)(1), NMFS is required to close any component of the king mackerel commercial sector when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined the commercial quota for the hook-and-line component of the commercial sector for Gulf king mackerel in the southern zone will be reached by February 20, 2018. Accordingly, the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the southern zone is closed effective at 12:01 a.m., local time, February 20, 2018, through the end of the fishing year on June 30, 2018.

During the commercial hook-and-line closure in the southern zone, no person aboard a vessel for which a valid commercial permit for king mackerel has been issued may harvest or possess Gulf migratory group king mackerel in or from Federal waters of the closed zone, as specified in 50 CFR 622.384(e), unless a valid Federal commercial gillnet permit for king mackerel has been issued to the vessel and the gillnet fishery is open. There is one other exception. A person aboard a vessel that has a valid Federal charter vessel/headboat permit and also has a commercial king mackerel permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zone under the 3-fish daily recreational bag limit, provided the vessel is operating as a charter vessel or headboat, and as long as the recreational sector for Gulf king mackerel is open. Charter vessels or headboats that have a valid commercial king mackerel permit are considered to be operating as a charter vessel or headboat when they carry a passenger who pays a fee or when more than three persons are aboard, including operator and crew.

Also during the closure, king mackerel caught with hook-and-line gear from the closed zone, including those

harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to king mackerel caught with hook-and-line gear from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(2)).

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf king mackerel and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(b) and 622.388(a)(1), and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements to provide prior notice and opportunity for public comment

on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b) (B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and the associated AM has already been subject to notice and public comment, and all that remains is to notify the public of the closure. Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to implement immediately this action to protect the king mackerel stock, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d) (3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 16, 2018.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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